

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE  
AND

The Hon'ble MR.JUSTICE R.MAHADEVAN  
W.P. No.19172 of 2016

V.Tamizhanban ... Petitioner

-vs-

1.Union of India,  
rep. by its Secretary,  
School Education and Literacy,  
Ministry of Human Resources Development,  
South Block, New Delhi-110 001.

2.The Secretary,  
Central Board of Secondary Education,  
Shiksha Kendra,  
2, Community Centre,  
Preet Vihar, New Delhi-110 092.

3.The Joint Secretary,  
Central Board of Secondary Education,  
J-Block, 15<sup>th</sup> Main Road,  
Anna Nagar West,  
Chennai-600 040.

4.The Government of Tamil Nadu,  
rep. by its Secretary,  
Department of School Education,  
Fort St. George,  
Chennai-600 009.

5.The Principal,  
Padma Seshadri Bala Bhavan,  
No.29, Alagirisamy Salai,  
K.K.Nagar,  
Chennai-600 078.

.. Respondents

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Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the first and second respondents to appoint a permanent body to monitor admission to XI standard in the fifth respondent school and other schools in the State of Tamil Nadu and direct the fifth respondent to admit the students to XI standard who have studied X standard during the academic year 2015-2016 in the respondent school in their preferred subject in terms of the order dated 25.6.2007 passed in W.P.No.12972 of 2007 by this Hon'ble Court.

For Petitioner : Mr.N.Senthil Kumar

For Respondents : Mr.Su.Srinivasan  
Asst. Solicitor General for R1 & R2  
Mr.G.Nagaraj for R3  
Mr.T.N.Rajagopalan  
Spl. Government Pleader for R4

\* \* \* \* \*

#### O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks appointment of a permanent body to monitor the admission to 11<sup>th</sup> standard in respondent No.5 school and other schools in the State of Tamil Nadu to ensure that students, who have studied in class X during the academic year 2015-2016 are not deprived of admission to class XI in the same school.

2. On the first date of hearing of the petition itself, we had mentioned that there was no specific example given where an Institution had refused to accommodate a child in such a situation. The illustration given to us is of a child or the parents who wanted only one particular stream in the school, where the child could not be accommodated.

3. We may note that the petitioner is not an expert, instead he is a law student. He has no specialized knowledge or ability in the field of education.

4. The counter-affidavit filed by the State Government records that in so far as the schools governed by the State Board are concerned, a Circular has been issued in terms of the judgment of the Hon'ble Supreme Court in Principal Cambridge School v. Payal Gupta (1995 (5) SCC 512). It has also been stated that the judgment relied upon by the petitioner in

W.P.No.12972 of 2007, decided on 25.06.2007 qua the schools affiliated to CBSE also records that the CBSE itself has made it clear as per its instruction in the Circular issued on 30.03.2006 in the said terms. For convenience, we reproduce the norms as under:-

"(a) Admission of student from class X to class XI within the same school should not be treated as a fresh admission but only as continuation of the original admission done in that school. So issuing transfer certificate to class X students within the same school and readmitting them to class XI is against the rules.

(b) All the students of the same school who have qualified in class X board examination should be offered admission in class XI as far as possible subject to the availability of seats. Students from other schools may be considered for admission after accommodating the students of their own school.

(c) Every student cannot be given his or her choice of subjects because of the various limitations such as number of seats available, number of sections in class XI etc. However, the choice of students along with their performance in class X Board examination should be considered for allotment of different subjects.

(d) No admission test should be conducted by schools for their own students. After admitting their own students if there are still vacancies, they may be filled either on the basis of the class X Board examinations or by conducting an admission test for the students who are from other schools.

(e) No school should prescribe any cut off marks for admission to class XI or for allotment of subjects."

We are thus of the view that really there is no ambiguity on the issue in so far as the legal principles are concerned and there is no complaint by any student either qua the State Board or qua the CBSE Board in this behalf.

5. The petitioner has also filed an additional affidavit alleging that the fifth respondent school has not given admission to 42 students in Class XI, who had passed in that school in Class X. However, after giving the list of names, it has been averred "I further submit that the above students were prepared to take Maths and Science group but the Principal of the 5<sup>th</sup> respondent school curtly said that they will not offer those groups to them as the above children may not cope up with

the tough XI standard syllabus of CBSE".

6. Our apprehension from the beginning was this only, that the students are seeking admission in a particular stream, where they were not accommodated - and it was not the case where the school did not grant them admission in Class XI. The norms reproduced by us aforesaid also in sub-para (c) state that every student cannot be given his or her choice of subjects.

7. We may notice that it is not unusual now for the parents or the students to insist on a particular stream, irrespective of their academic performance in their Class X. Everybody cannot be an Engineer or a Doctor. When liberal arts or commerce course is offered, they are not taken. In such a situation, the school cannot be blamed that it is not accommodating the student in Class XI.

8. We are thus of the view that the present petition is possibly more in the nature of some kind of proxy litigation on behalf of students who did not get the particular stream in the fifth respondent school which they were desirous and thereafter decided to move out of the school.

9. The writ petition is dismissed. No costs.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,  
School Education and Literacy,  
Ministry of Human Resources Development,  
South Block, New Delhi-110 001.

2.The Secretary,  
Central Board of Secondary Education,  
Shiksha Kendra,  
2, Community Centre,  
Preet Vihar, New Delhi-110 092.



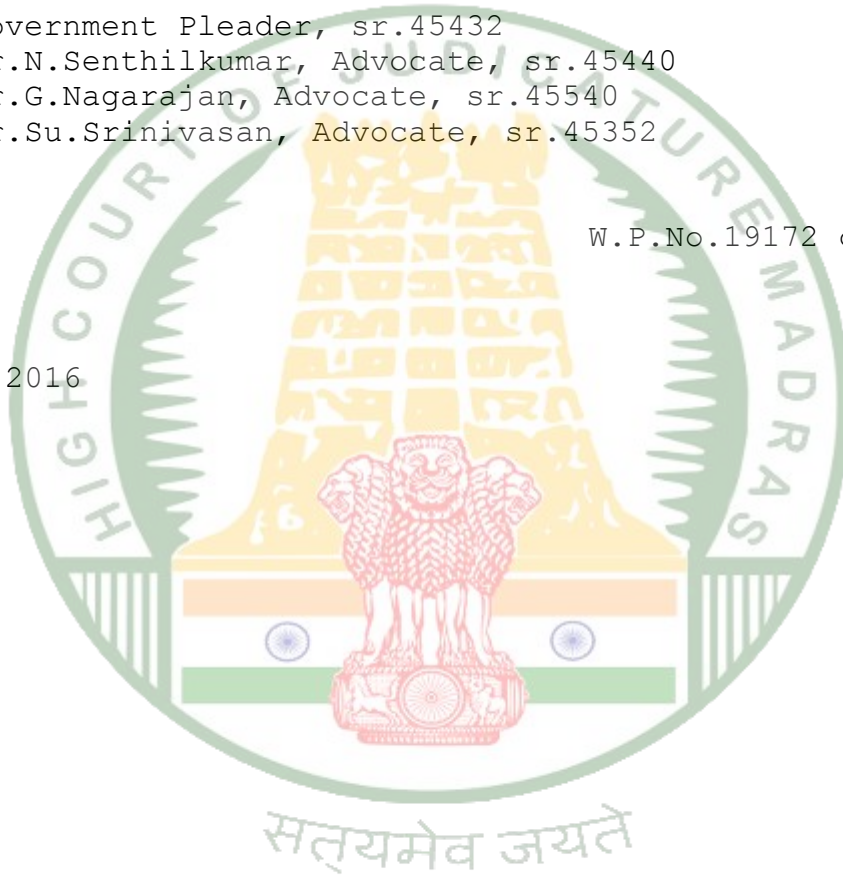
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Chennai-600 040.

4.The Secretary,  
Department of School Education,  
Fort St. George,  
Chennai-600 009.

1 cc to Government Pleader, sr.45432  
1 cc to Mr.N.Senthilkumar, Advocate, sr.45440  
1 cc to Mr.G.Nagarajan, Advocate, sr.45540  
1 cc to Mr.Su.Srinivasan, Advocate, sr.45352

W.P.No.19172 of 2016

vsn co  
kra 23.08.2016



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